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*Counsel for Furukawa Electric North America APD, Inc.*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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:  
**In re: DELPHI CORPORATION, et. al.,** : **Chapter 11**  
:  
**Debtors.** : **Case No. 05-44481 (RDD)**  
: **Jointly Administered**  
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**OBJECTION OF FURUKAWA ELECTRIC NORTH AMERICA  
APD, INC. TO (I) DEBTORS' NOTICE OF CURE AMOUNT  
WITH RESPECT TO EXECUTORY CONTRACT OR UNEXPIRED  
LEASE TO BE ASSUMED AND ASSIGNED IN CONNECTION WITH  
SALE OF STEERING AND HALFSHAFT BUSINESS AND (II) DEBTORS'  
NOTICE OF CURE AMOUNT WITH RESPECT TO EXECUTORY CONTRACT  
TO BE ASSUMED AND ASSIGNED UNDER PLAN OF REORGANIZATION**

COMES NOW Furukawa Electric North America APD, Inc. ("Furukawa"), by and through their undersigned counsel, and hereby files this Objection (the "Objection") to the (I) Debtors' Notice of Cure Amount with Respect to Executory Contract or Unexpired Lease to be Assumed and Assigned in Connection with Sale of Steering and Halfshaft Business [Docket No. 12324] (the "Proposed Sale Cure Notice") and (II) Notice of Cure Amount with Respect to Executory Contract to be Assumed and Assigned Under Plan of Reorganization (the "Plan Cure Notice" and, together with the Proposed Sale Notice of Cure, the "Proposed Cure Notices")<sup>1</sup> because the proposed Cure Amounts are less than the full prepetition amounts owed by the Debtors to Furukawa on

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<sup>1</sup> Capitalized terms not defined herein shall have the meanings given to them in the Notice of Cure.

account of those executory contracts.<sup>2</sup> In support of the Objection, Furukawa respectfully shows as follows:

1. On October 8 and 14, 2005 (the "Petition Date"), the Debtors, filed voluntary petitions under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 1330, as then amended, in the United States Bankruptcy Court for the Southern District of New York.

2. On or about January 7, 2008, the Debtors served their Plan Cure Notice.

3. In accordance with the Plan Cure Notice, Furukawa timely returned the Plan Cure Notice Form to Kurtzman Carson Consultants, LLC, indicating that it disagreed with the Debtors' proposed Cure Amounts.

4. On or about December 21, 2007, the Court entered the Order Under 11 U.S.C. § 363 and Fed. R. Bankr. P. 2002 and 9014 (I) Approving Bidding Procedures, (II) Granting Certain Bid Protections, (III) Approving Form and Manner of Sale Notices, and (IV) Setting Sale Hearing Date in Connection With Sale of Steering And Halfshaft Business (the "Bidding Procedures Order").

5. Pursuant to the terms of the Bidding Procedures Order, on January 23, 2008, the Debtors filed their Notice of Assumption and/or Assignment of Executory Contracts or Unexpired Lease to Buyers in Connection with Sale of Steering and Halfshaft Business (the "Proposed Sale Notice of Assumption") and the Proposed Sale Cure Notice.

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<sup>2</sup> Furukawa reserves its right to seek administrative expense priority on account of all of the postpetition amounts owing by the Debtors to Furukawa. Furukawa also reserves its right to receive compensation on account of the Proofs of Claims filed against the Debtors' estates that are unrelated to the contracts that the Debtors are seeking to assume.

6. The Proposed Cure Notices identify the following two (2) Furukawa purchase orders as executory contracts that the Debtors intend to assume and assign to the Buyers of their Steering and Halfshaft Business and identify proposed Cure Amounts:

<u>Contract</u>	<u>Proposed Cure Amount</u>
i. SAG90I4073	\$2,664,471.29
ii. SAG90I5645	\$8,840.80

7. Furukawa objects to the proposed Cure Amount in respect of purchase order SAG90I4073 (“SAG90I4073”) because the proposed Cure Amount fails to accurately reflect prepetition amount due and owing by the Debtors to Furukawa. The current amount due and owing to Furukawa under SAG90I4073 is **\$2,832,655.73**. A summary of the amount due and owing under SAG90I4073 is attached hereto as Exhibit A. A copy of the pertinent invoices is attached hereto as Exhibit B.

8. Pursuant to Section 365(b)(1) of the Bankruptcy Code, “[i]f there has been a default in an executory contract or unexpired lease of the debtor, the trustee may not assume such contract or lease unless, at the time of assumption of such contract or lease, the trustee (A) cures, or provides adequate assurance that the trustee will promptly cure, such default.” Thus, as a condition on a debtor’s ability to assume a contract, the debtor is required to cure any existing default and compensate the non-debtor party. In re Genuity, Inc., 323 B.R. 79, 85 (Bankr. S.D.N.Y. 2005) (“Code § 365 clearly and plainly states that in order to assume a contract, a debtor is required to first cure all defaults, or provide adequate assurance that it will cure such defaults.”).

9. Because the Proposed Cure Notices understate the prepetition amount due and owing to Furukawa under SAG90I4073 and, therefore, fails to adequately provide that the Debtors and/or Buyer will fully cure SAG90I4073, Furukawa objects to the

proposed assumption and assignment. To the extent the Debtors seek to assume and assign SAG90I4073, the proposed Cure Amount must be modified to reflect that the actual amount due and owing is **\$2,832,655.73**, and that such amount will be paid at the earlier of the closing of the Sale or as provided for under the Plan.

10. Furukawa respectfully requests that this Court waive the requirement contained in Rule 9013(b) of the Local Bankruptcy Rules for the Southern District of New York, that a separate memorandum of law be submitted because the issues raised in this Objection are not novel. To the extent this Court determines that a memorandum of law is required, Furukawa requests that it be allowed to submit one at a date to be determined by the Court.

WHEREFORE Furukawa respectfully requests that this Court enter an order (i) denying the assumption proposed in the Proposed Cure Notices or, in the alternative, modify the Cure Amounts to reflect the actual prepetition amount due and owing under SAG90I4073 (**\$2,832,655.73**) and (ii) granting such further relief as this Court deems just and proper.

Respectfully submitted, this 31st day of January 2008.

ALSTON & BIRD LLP

/s/ Dennis J. Connolly  
Dennis J. Connolly (DC-9932)  
David A. Wender (admitted *pro hac vice*)  
One Atlantic Center  
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**AFFIDAVIT OF SERVICE**

STATE OF GEORGIA )  
                      )  
                      ss:  
COUNTY OF FULTON )

DAVID A. WENDER, having personally appeared before the undersigned officer, duly authorized to administer oaths in the State of Georgia, and having been duly sworn, deposes and states as follows:

1. I am not a party to this action, am over 18 years of age, and am employed by Alston & Bird LLP, 1201 West Peachtree Street, Atlanta, Georgia 30309-3424.
2. On the 31st day of January 2008, I caused true and correct copies of the **“Objection of Furukawa Electric North America APD, Inc. to (I) Debtors’ Notice of Cure Amount With Respect to Executory Contract or Unexpired Lease to be Assumed and Assigned in Connection With Sale of Steering and Halfshaft Business and (II) Debtors’ Notice of Cure Amount With Respect to Executory Contract to be Assumed and Assigned”**

**Under Plan of Reorganization”** to be delivered by Overnight Delivery on the parties listed on the Service List attached hereto as Exhibit A.

FURTHER AFFIANT SAYETH NOT.

/s/ David A. Wender  
DAVID A. WENDER

Sworn to and subscribed before me  
this 31st day of January 2008.

/s/ Beverly A. Raston  
NOTARY PUBLIC

Commission Expires:

July 14, 2008

## EXHIBIT A

The Honorable Robert D. Drain United States Bankruptcy Court Southern District of New York Alexander Hamilton Custom House One Bowling Green Courtroom 610 New York, NY 10004-1408	Skadden Arps, Slate, Meagher & Flom LLP 333 West Wacker Drive Chicago, IL 60606 Attn: John Lyons Attn: Ron Meisler Attn: Brian Fern
Delphi Corporation 5725 Delphi Drive Troy, Michigan 48098 Attn: Legal Staff	Delphi Corporation 5725 Delphi Drive Troy, Michigan 48098 Attn: Deputy General Counsel, Transactional & Restructuring
Davis Polk & Wardwell 450 Lexington Avenue New York, New York 10017 Attn: Donald Bernstein Attn: Brian Resnick	Latham & Watkins LLP 885 Third Avenue New York, New York 10022 Attn: Robert Rosenberg Attn: Mark Broude
Fried, Frank, Harris, Shriver & Jacobson LLP One New York Plaza New York, New York 10004 Attn: Bonnie Steingart	Kirkland & Ellis LLP 777 South Figueroa Street Los Angeles, California 90017 Attn: Richard Wynne
Office of the United States Trustee for the Southern District of New York 33 Whitehall Street, Suite 2100 New York, New York 1004 Attn: Alicia Leonhard	